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Liquidating Trustee,
8 RICHARD A. MARSHACK

9 UNITED STATES BANKRUPTCY COURT
10 CENTRAL DISTRICT OF CALIFORNIA – SANTA ANA DIVISION

11 In re
12 THE LITIGATION PRACTICE GROUP
P.C.,

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14 Debtor.
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Case No: 8-23-bk-10571-SC

Chapter 11

TRUSTEE’S EVIDENTIARY OBECTIONS
TO DECLARATION OF KATHLEEN P.
MARCH IN SUPPORT OF GREYSON-HAN-
JAYDE’S MOTION TO CONTINUE ALL THE
APPLICATIONS FOR FINAL FEES

Date: January 14, 2025

Time: 10:00 a.m.

Ctrm: 5C

Location: 411 West Fourth Street
Santa Ana, CA 92701

20 TO THE HONORABLE SCOTT C. CLARKSON, UNITED STATES BANKRUPTCY JUDGE,
21 THE OFFICE OF THE UNITED STATES TRUSTEE, AND ALL INTERESTED PARTIES:

22 Richard A. Marshack, in his capacities as Chapter 11 Trustee of the Bankruptcy Estate
23 (“Estate”) of The Litigation Practice Group P.C. (“Debtor”) and liquidating trustee of the LPG
24 Liquidation Trust (collectively, “Trustee”), hereby submits these Evidentiary Objections to the
25 Declaration of Kathleen P. March (“Declaration”) contained within the Motion to Continue All the
26 Applications for Final Fees (“Motion to Continue”) filed on January 9, 2025, as Docket No. 2017 by
27
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Greyson Law Center, PC, Han Trinh, and Jayde Trinh. Page number references are to the top-pages within the Motion to Continue.

OBJECTIONS TO DECLARATION OF KATHLEEN P. MARCH

Page, ¶, and Line	TESTIMONY	OBJECTIONS
Pg. 8, ¶ 4, Lns. 6-10	As briefed in Greyson-Han-Jayde's Objection, it is only by keeping fees allowed as interim fees, instead of allowing fees as final fees, which will ensure those fees can be ordered disgorged, if necessary to pay Greyson-Han-Jayde the 5.7 million they will be owed if they win their appeal in US District Court.	<p>1) Improper Legal Conclusion/Opinion Testimony – Fed. R. Evid.¹ 701-02</p> <p>2) Argumentative</p> <p>3) Hearsay – Fed. R. Evid. 802</p> <p>4) Best Evidence Rule – Fed. R. Evid. 1002</p> <p>If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is: (a) rationally based on the witness's perception; (b) helpful to clearly understand the witness's testimony or to determining a fact in issue; and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702. Fed. R. Evid. 701 ("Opinion Testimony by Lay Witness"); see also Fed. R. Evid. 702 ("Testimony by Expert Witnesses"). Further, an evidentiary objection may be sustained based on argumentative testimony. <i>See Redwind v. W. Union, LLC</i>, 2016 U.S.Dist.LEXIS 57793, at *13-14 (D. Or. May 2, 2016) (sustaining an objection to a portion of a declaration as "argumentative and . . . more suitable for inclusion in a motion or memorandum in support").</p> <p>Here, the Declaration contains pure argument more fitting for a legal brief than a Declaration. For this reason alone, the evidentiary objection can and should be sustained.</p>

¹ The Federal Rules of Evidence apply in cases under the Bankruptcy Code. Fed. R. Bankr. P. 9017.

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		<p>The Declaration further references briefing in a separate pleading in violation of the Fed. R. Evid. 802 rule against hearsay and the Fed. R. Evid. 1002 best evidence rule.</p> <p>In any event, the Declaration’s legal argument is unavailing for the reasons set forth in Trustee’s opposition to the Motion to Continue.</p>
<p>Pg. 8, ¶ 5, Lns. 11- 14</p>	<p>Cause exists to continue these fee applications seeking final fees, until after US District Court rules on Greyson-Han-Jayde’s appeals (8:24-CV-02074- FMO). (Emphasis omitted)</p>	<p>1) Improper Legal Conclusion/Opinion Testimony – Fed. R. Evid. 701-02</p> <p>2) Argumentative</p> <p>If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is: (a) rationally based on the witness’s perception; (b) helpful to clearly understand the witness’s testimony or to determining a fact in issue; and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702. Fed. R. Evid. 701 (“Opinion Testimony by Lay Witness”); <i>see also</i> Fed. R. Evid. 702 (“Testimony by Expert Witnesses”). Further, an evidentiary objection may be sustained based on argumentative testimony. <i>See Redwind v. W. Union, LLC</i>, 2016 U.S.Dist.LEXIS 57793, at *13-14 (D. Or. May 2, 2016) (sustaining an objection to a portion of a declaration as “argumentative and . . . more suitable for inclusion in a motion or memorandum in support”).</p> <p>Here, the Declaration contains pure argument more fitting for a legal brief than a Declaration. For this reason alone, the evidentiary objection can and should be sustained.</p>

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		In any event, the Declaration’s legal argument is unavailing for the reasons set forth in Trustee’s opposition to the Motion to Continue.
Pg. 8, ¶ 6, Lns. 15-21	Trustee’s REPLY [dkt.2011, filed 1/7/25] has no explanation, and no evidence, as to how the 3 orders appealed could be affirmed on appeal, given the consolidated Opening Brief on Appeal filed in District Court on 12/20/24, which is attached to Greyson-Han-Jayde’s Addendum to Objection pdkt.1972, file 12/4/24, and which briefs and cites evidence proving many reversible errors.	<p>1) Improper Legal Conclusion/Opinion Testimony – Fed. R. Evid. 701-02</p> <p>2) Argumentative</p> <p>3) Hearsay – Fed. R. Evid. 802</p> <p>4) Best Evidence Rule – Fed. R. Evid. 1002</p> <p>If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is: (a) rationally based on the witness’s perception; (b) helpful to clearly understand the witness’s testimony or to determining a fact in issue; and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702. Fed. R. Evid. 701 (“Opinion Testimony by Lay Witness”); <i>see also</i> Fed. R. Evid. 702 (“Testimony by Expert Witnesses”). Further, an evidentiary objection may be sustained based on argumentative testimony. <i>See Redwind v. W. Union, LLC</i>, 2016 U.S.Dist.LEXIS 57793, at *13-14 (D. Or. May 2, 2016) (sustaining an objection to a portion of a declaration as “argumentative and . . . more suitable for inclusion in a motion or memorandum in support”).</p> <p>Here, the Declaration contains pure argument more fitting for a legal brief than a Declaration. For this reason alone, the evidentiary objection can and should be sustained.</p> <p>The Declaration further references briefing in a separate pleading in</p>

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		<p>violation of the Fed. R. Evid. 802 rule against hearsay and the Fed. R. Evid. 1002 best evidence rule.</p> <p>In any event, the Declaration’s legal argument is unavailing for the reasons set forth in Trustee’s opposition to the Motion to Continue.</p>
<p>Pp. 8-9, ¶ 7, Lns. 22-27, 1- 10</p>	<p>Plus, Trustee’s REPLY ignores that, at the 8/29/24 plan confirmation hearing, Trustee’s attorney repeatedly told this Court that professional fees allowed could be disgorged, if necessary to pay Greyson-Han-Jayde, if Greyson-Han-Jayde won their appeals. The plan confirmation hearing transcript (relevant pages highlighted in yellow) is attached to Greyson-Han-Jayde’s Objection [dkt.1972 filed 12/4/24]. Transcript pages p.30:17-25, p.31:1-20, p.102:14 to104:19, p.107:16, and pp.122:22 to 123:13—are where this court repeatedly asked Trustee counsel whether fees could be recaptured to pay Greyson/Han/Jayde whatever they were ultimately allowed on appeal, and Trustee counsel repeatedly told this Court that fees could be ordered disgorged if necessary to pay whatever Greyson/Han/Jayde were ultimately allowed on appeal, and the Court said that was correct. No case cited by Trustee’s REPLY had such a representation by Trustee. (Emphasis omitted.)</p>	<ol style="list-style-type: none"> 1) Improper Legal Conclusion/Opinion Testimony – Fed. R. Evid. 701-02 2) Argumentative 3) Best Evidence Rule – Fed. R. Evid. 1002 <p>If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is: (a) rationally based on the witness’s perception; (b) helpful to clearly understand the witness’s testimony or to determining a fact in issue; and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702. Fed. R. Evid. 701 (“Opinion Testimony by Lay Witness”); <i>see also</i> Fed. R. Evid. 702 (“Testimony by Expert Witnesses”). Further, an evidentiary objection may be sustained based on argumentative testimony. <i>See Redwind v. W. Union, LLC</i>, 2016 U.S.Dist.LEXIS 57793, at *13-14 (D. Or. May 2, 2016) (sustaining an objection to a portion of a declaration as “argumentative and . . . more suitable for inclusion in a motion or memorandum in support”).</p> <p>Here, the Declaration contains pure argument more fitting for a legal brief than a Declaration. For this reason alone, the evidentiary objection can and should be sustained.</p>

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		<p>The Declaration further references briefing in a separate pleading in violation of the Fed. R. Evid. 1002 best evidence rule.</p> <p>In any event, the Declaration’s legal argument is unavailing for the reasons set forth in Trustee’s opposition to the Motion to Continue.</p>
<p>Pg. 9, ¶ 8, Lns. 12- 16</p>	<p>Trustee’s Appellee brief is due in District Court by 2/19/25, and Greyson-Han-Jayde’s Reply brief is due 2 weeks after Appellee’s brief is filed, which is 3/5/25. District Judges often do not hold oral argument on appeals, but if Judge Olguin sets oral argument, that is a single day.</p>	<p>1) Improper Legal Conclusion/Opinion Testimony – Fed. R. Evid. 701-02 2) Argumentative 3) Speculation – Fed. R. Evid. 602</p> <p>If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is: (a) rationally based on the witness’s perception; (b) helpful to clearly understand the witness’s testimony or to determining a fact in issue; and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702. Fed. R. Evid. 701 (“Opinion Testimony by Lay Witness”); <i>see also</i> Fed. R. Evid. 702 (“Testimony by Expert Witnesses”). Further, an evidentiary objection may be sustained based on argumentative testimony. <i>See Redwind v. W. Union, LLC</i>, 2016 U.S.Dist.LEXIS 57793, at *13-14 (D. Or. May 2, 2016) (sustaining an objection to a portion of a declaration as “argumentative and . . . more suitable for inclusion in a motion or memorandum in support”).</p> <p>Further, under Fed. R. Evid. 602, “A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter.”</p>

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		Here, the Declaration lacks foundation regarding the statement that “if Judge Olguin sets oral argument, that is a single day.” Further, this statement is speculative and does not derive from Kathleen P. March’s personal knowledge as it is not her decision.
Pg. 9, ¶ 9, Lns. 17- 24	If the District Court reverses the Bankruptcy Court orders, to grant Greyson-Han-Jayde’s administrative expense motions, then the amounts awarded will need to be paid within the 60 days specified in the confirmed plan. (March Decl hereto). Consequently, continuing the fee applications until after the US District Court rules will be likely to resolve issues regarding Greyson-Han-Jayde’s right to payment of administrative expenses.	<p>1) Improper Legal Conclusion/Opinion Testimony – Fed. R. Evid. 701-02</p> <p>2) Argumentative</p> <p>3) Speculation – Fed. R. Evid. 602</p> <p>If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is: (a) rationally based on the witness’s perception; (b) helpful to clearly understand the witness’s testimony or to determining a fact in issue; and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702. Fed. R. Evid. 701 (“Opinion Testimony by Lay Witness”); <i>see also</i> Fed. R. Evid. 702 (“Testimony by Expert Witnesses”). Further, an evidentiary objection may be sustained based on argumentative testimony. <i>See Redwind v. W. Union, LLC</i>, 2016 U.S.Dist.LEXIS 57793, at *13-14 (D. Or. May 2, 2016) (sustaining an objection to a portion of a declaration as “argumentative and . . . more suitable for inclusion in a motion or memorandum in support”).</p> <p>Here, the Declaration contains pure argument more fitting for a legal brief than a Declaration. The Declaration even contains a citation to itself, suggesting that it was copy-pasted from a legal brief. For this reason alone, the evidentiary objection can</p>

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		<p>and should be sustained.</p> <p>In any event, the Declaration’s legal argument is unavailing for the reasons set forth in Trustee’s opposition to the Motion to Continue.</p> <p>Furthermore, the Declaration lacks foundation regarding the statement that “If the District Court reverses the Bankruptcy Court orders” This statement is also speculative and does not derive from Kathleen P. March’s personal knowledge as it is not her decision.</p>
<p>Pp. 9-10, ¶ 10, Lns. 25-26, 1-8</p>	<p>In addition, because the confirmed liquidating plan does not require or allow Bankruptcy Court to rule on money which, post-confirmation, comes into, or goes out of LPG, the only money this Court is assured to have jurisdiction to control is the money that LPG had, at the time the LPG plan was confirmed (confirmed 8/29/24); and 5.7 million dollars of that money should properly be ordered put in a two signature account, as requested in Greyson-Han-Jayde’s Objection to final fees being allowed without escrowing 5.7 million dollars, to ensure there is money to pay Greyson-Han-Jayde’s administrative expenses, if they win their appeals.</p>	<ol style="list-style-type: none"> 1) Improper Legal Conclusion/Opinion Testimony – Fed. R. Evid. 701-02 2) Argumentative 3) Best Evidence Rule – Fed. R. Evid. 1002 <p>If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is: (a) rationally based on the witness’s perception; (b) helpful to clearly understand the witness’s testimony or to determining a fact in issue; and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702. Fed. R. Evid. 701 (“Opinion Testimony by Lay Witness”); <i>see also</i> Fed. R. Evid. 702 (“Testimony by Expert Witnesses”). Further, an evidentiary objection may be sustained based on argumentative testimony. <i>See Redwind v. W. Union, LLC</i>, 2016 U.S.Dist.LEXIS 57793, at *13-14 (D. Or. May 2, 2016) (sustaining an objection to a portion of a declaration as “argumentative and . . . more suitable for inclusion in a motion or memorandum in support”).</p>

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Page, ¶, and Line	TESTIMONY	OBJECTIONS
		<p>Here, the Declaration contains pure argument more fitting for a legal brief than a Declaration. For this reason alone, the evidentiary objection can and should be sustained.</p> <p>The Declaration further references a separate pleading in violation of the Fed. R. Evid. 1002 best evidence rule.</p> <p>In any event, the Declaration’s legal argument is unavailing for the reasons set forth in Trustee’s opposition to the Motion to Continue.</p>
<p>Pg. 11, ¶ 10, Lns. 9-18</p>	<p>Moreover, the reason that Greyson-Han-Jayde’s appeal is not completed at present is because Bankruptcy Court sua sponte on some occasions, and at Trustee’s requests on other occasions, and over Greyson-Han-Jayde’s objections to continuance, repeatedly continued hearing Greyson-Han-Jayde’s administrative expense motions—all filed 11/17/23—multiple times, and did not deny those motions until 8/27/24. In light of this, it would be inequitable, and unfair, not to continue the hearing on the final fee applications, from 1/14/25, until after the District Court rules on Greyson-Han-Jayde’s appeal to District Court (8:24-CV-02074-FMO).</p>	<p>1) Improper Legal Conclusion/Opinion Testimony – Fed. R. Evid. 701-02 2) Argumentative 3) Speculation – Fed. R. Evid. 602</p> <p>If a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is: (a) rationally based on the witness’s perception; (b) helpful to clearly understand the witness’s testimony or to determining a fact in issue; and (c) not based on scientific, technical, or other specialized knowledge within the scope of Rule 702. Fed. R. Evid. 701 (“Opinion Testimony by Lay Witness”); <i>see also</i> Fed. R. Evid. 702 (“Testimony by Expert Witnesses”). Further, an evidentiary objection may be sustained based on argumentative testimony. <i>See Redwind v. W. Union, LLC</i>, 2016 U.S.Dist.LEXIS 57793, at *13-14 (D. Or. May 2, 2016) (sustaining an objection to a portion of a declaration as “argumentative and . . . more suitable for inclusion in a motion or memorandum in support”).</p>

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		<p>Further, under Fed. R. Evid. 602, “A witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter.”</p> <p>Here, the Declaration lacks foundation regarding the argument that the appeal is not completed because of this Court’s continuances. This statement is argumentative and pure speculation and should be stricken.</p> <p>In any event, the Declaration’s legal argument is unavailing for the reasons set forth in Trustee’s opposition to the Motion to Continue.</p>

DATED: January 10, 2025

MARSHACK HAYS WOOD LLP

/s/ Bradford N. Barnhardt

By:

D. EDWARD HAYS
 AARON E. DE LEEST
 BRADFORD N. BARNHARDT
 Attorneys for Chapter 11 Trustee and Liquidating
 Trustee, RICHARD A. MARSHACK

4931-9508-3022, v. 1

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
870 Roosevelt, Irvine, CA 92620.

A true and correct copy of the foregoing document entitled: **TRUSTEE'S EVIDENTIARY OBECTIONS TO DECLARATION OF KATHLEEN P. MARCH IN SUPPORT OF GREYSON-HAN-JAYDE'S MOTION TO CONTINUE ALL THE APPLICATIONS FOR FINAL FEES** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **January 10, 2025**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL: On **January 10, 2025**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

DEBTOR – MAIL REDIRECTED TO TRUSTEE

THE LITIGATION PRACTICE GROUP P.C.
17542 17TH ST
SUITE 100
TUSTIN, CA 92780-1984

☒ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL: Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **January 10, 2025**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

VIA PERSONAL DELIVERY:

PRESIDING JUDGE'S COPY

HONORABLE SCOTT C. CLARKSON
UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
411 WEST FOURTH STREET, SUITE 5130 / COURTROOM 5C
SANTA ANA, CA 92701-4593

VIA EMAIL:

MONITOR

Nancy Rapoport
nancy.rapoport@unlv.edu

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

January 10, 2025
Date

Layla Buchanan
Printed Name

/s/ Layla Buchanan
Signature

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** CONTINUED:

- **INTERESTED PARTY COURTESY NEF:** Kyra E Andrassy kandrassy@raineslaw.com, bclark@raineslaw.com;jfisher@raineslaw.com
- **ATTORNEY FOR CHAPTER 11 TRUSTEE RICHARD A MARSHACK (TR): Bradford Barnhardt** bbarnhardt@marshackhays.com, bbarnhardt@ecf.courtdrive.com,alinares@ecf.courtdrive.com
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- **ATTORNEY FOR DEFENDANT LEUCADIA ENTERPRISES, INC.: Michael Jay Berger** michael.berger@bankruptcypower.com, yathida.nipha@bankruptcypower.com;michael.berger@ecf.inforuptcy.com
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- **INTERESTED PARTY COURTESY NEF: Ashley Dionisio** adionisio@omniagnt.com
- **ATTORNEY FOR INTERESTED PARTY NATIONAL ASSOCIATION OF CONSUMER BANKRUPTCY ATTORNEYS and INTERESTED PARTY NATIONAL CONSUMER BANKRUPTCY RIGHTS CENTER : Jenny L Doling** jd@jdl.law, dolingjr92080@notify.bestcase.com;15994@notices.nextchapterbk.com;jdoling@jubilee bk.net
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- **ATTORNEY FOR DEFENDANT CLEAR VISION LLC dba LIBERTY1 FINANCIAL: Marc C Forsythe** mforseythe@goeforlaw.com, mforseythe@goeforlaw.com;dcyrankowski@goeforlaw.com;Forsythe.MarcR136526@notify.bestcase.com
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- **ATTORNEY FOR CREDITOR AMY GINSBURG; CREDITOR KENTON COBB; and CREDITOR SHANNON BELLFIELD: Amy Lynn Ginsburg** efilings@ginsburglawgroup.com
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